



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/225,245	01/04/1999	NAOHITO TOMOE	1137-761	2691

6449 7590 06/03/2004

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

EXAMINER

VUONG, QUOCHIE B

ART UNIT	PAPER NUMBER
----------	--------------

2685

23

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/225,245

Applicant(s)

TOMOE, NAOHITO

Examiner

Quochien B Vuong

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 and 11 is/are allowed.
- 6) ☒ Claim(s) 1,2,12 and 13 is/are rejected.
- 7) ☒ Claim(s) 3-9 and 4-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 04/26/04 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art on pages 1-5 and figure 11 of the present specification in view of Yoshimi (US 5,603,093).

As to claims 1, 2, 12, and 13, Applicant's Admitted Prior Art (AAPA) discloses an interference wave detecting device incorporated into a base station of a wireless

communication system, comprising transmitting means and receiving means as recited in the claims (see figure 11; and pages 1-5). AAPA fails to disclose a controlling means for causing the transmitting means to stop transmitting while the receiving means receives the interference wave signal. However, Yoshimi discloses a controlling means for causing the transmitting means to stop transmitting so that the interference wave is detected more accurately (see column 1, line 60 – column 2, line 10). Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to adapt the teaching of Yoshimi for stopping the transmitting means to the base station of AAPA to provide more properly detecting interference signal.

Allowable Subject Matter

4. Claims 3-9 and 14-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 3-9 and 14-20 are objected with the same reasons set forth in the previous Office action mailed 03/14/01 (paper #5).

5. Claims 10-11 are allowed over the cited prior art.

Claims 10-11 are allowable with the same reasons set forth in the previous Office action mailed 03/14/01 (paper #5).

Response to Arguments

6. Applicant's arguments filed 04/26/04 have been fully considered but they are not persuasive.

Regarding the newly added limitation to independent claims 1 and 12, (i.e., an interference wave detecting device *incorporated into a base station of a wireless communication system*), the AIPA (figure 11, and pages 1-5 of the present specification) discloses such limitation as explained in the rejection above. The secondary reference, Yoshimi, is only use for disclosing stopping transmitting at the base station so that the interference wave is detected more accurately.

Conclusion

7. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121

Crystal Drive, Arlington, VA 22202. Sixth Floor (Receptionist).

Any inquiry concerning this communication from the examiner should be directed to Quochien B. Vuong whose telephone number is (703) 306-4530. The examiner can normally be reached on Monday through Friday from 9:30 a.m. to 6:00 p.m. EST.

✓ Application/Control Number: 09/225,245
Art Unit: 2685

Page 5

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached on (703) 305-4385.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is (703) 306-0377.



QUOCHIE B. VUONG
PRIMARY EXAMINER

Quochien B. Vuong

May 27, 2004.